Commonwealth of Massachusetts

Office of Consumer Affairs and Business Regulation

Heating Oil Inventory Program

A Report by the Division of Energy Resources

March 2001

Argeo Paul Cellucci
Governor

Jane Swift
Lieutenant Governor

Jennifer Davis Carey
Director of Consumer Affairs and Business Regulation

David L. O'Connor
Commissioner of Energy Resources

ACKNOWLEDGEMENTS

The Division of Energy Resources' Market Development Team prepared this report under the direction of team leader Joanne McBrien. Readers may obtain specific information concerning the report from the Division at 617-727-4732.

The Division would like to recognize the invaluable contributions of the following individuals:

Debra Chaison, Office of the Governor
Matthew Keswick, Office of the Governor
Michael Alogna, Executive Office for Administration and Finance
Jonathan Goldberg, Operational Services Division
Robert Garrity, Office of Consumer Affairs and Business Regulation
Gray Holmes, Office of Consumer Affairs and Business Regulation
Sarah Johnson, Office of Consumer Affairs and Business Regulation
Elizabeth Cellucci, Department of Telecommunications and Energy
George Yiankos, Department of Telecommunications and Energy
Anne Hartstein, Executive Office of Elder Affairs
Derrek Shulman, Executive Office of Elder Affairs
Steven Carvalho, Department of Housing and Community Development
Ken Spicer, Department of Housing and Community Development

This report is also posted on DOER's website at http://www.state.ma.us/doer.

Table of Contents

SECTION *Page*

EXECUTIVE SUMMARY 3

Introduction 5

Report Outline 6

Chapter 1: The Importance of Heating Oil Inventories 7

Chapter 2: Facing the Winter of 2000-2001 10

Chapter 3: A Strategy to Build Inventories 13

Chapter 4: Program Impacts 17

Chapter 5: Program Administration 20

TABLES

1 New England Heating Oil Inventory Levels, July 2000 to January 2001 18

2 Average Wholesale Rack Prices for Heating Oil, Dec. 8 – Jan 18 19

FIGURES

1 Wholesale and Retail Prices for No. 2 Heating Oil in Massachusetts 7

2 Residential Sales of No. 2 Distillate Fuel in U.S. 8

3 Distillate Fuel Use by Sector in New England, 1999 9

4 Heating Stocks in New England 10

5 MA Retail Heating Oil Prices 11

6 New England Heating Oil Inventories, April 1994 – January 2001 17

7 New England Heating Oil Inventories, July 2000 – January 2001 18

APPENDICES

A Heating Oil Inventory Program Participant Locations A-1

B Request for Response. A-2

C Emergency Regulations: 225 CMR 13.00 .... A-10

D Pre-Qualification Information A-20

EXECUTIVE SUMMARY

Heating oil inventories provide a critical buffer against interruptions in the supply of heating oil to Massachusetts consumers that might otherwise occur due to weather extremes and transportation problems. In September of 2000, New England heating oil inventories were more than 60% lower than at the same time a year earlier. Market indicators suggested that inventories would not be increased to an appreciable degree before the heart of the winter arrived. Wholesale heating oil distributors were not building inventories. They reported concerns that if they bought oil at high prices at the start of the winter they would be unable to recover those prices later, if wholesale oil prices fell.

In response to these concerns, Massachusetts Governor Argeo Paul Cellucci proposed several legislative actions to address Massachusetts' high heating oil prices and low supplies. This report focuses on one of those actions—the Massachusetts Heating Oil Inventory Program. The goal of the first-in-the-nation program was to reduce the risk of supply interruptions for consumers during the 2000/2001 winter by giving incentives to oil distributors to purchase and store oil in December and hold it until mid-January. On November 9, 2000, the Legislature approved, and Governor Cellucci signed into law, a $5 million appropriation directing the Division of Energy Resources (DOER) to develop the program.

HIGHLIGHTS

DOER awards contracts to increase Massachusetts heating oil inventories by 32 million gallons.

On November 15, 2000, DOER completed an initial bid selection. Four companies were awarded contracts that required them to buy and store 23.1 million gallons (550,000 barrels) of heating oil (#2 oil) to be held from December 8, 2000 through January 15, 2001. On November 28, 2000, DOER held an additional bidding round for the $1.7 million in remaining program funds. Five companies, two of which participated in the earlier round, received awards totaling another 8.82 million gallons (210,000 barrels). These awards required program oil be held in storage in Massachusetts from December 22, 2000 through January 15, 2001. The bids produced an average cost of $0.15 per gallon for oil stored under the program.

As a result of additional program stipulations, the seven winning companies were required to hold a total of 53 million gallons of heating oil in Massachusetts.

In addition to holding in storage in Massachusetts the amount of oil specified in their bids, winning bidders were required to hold in storage an amount of #2 oil that was greater than or equal to the average amount of oil they had in storage in Massachusetts on October 1 – October 5, 2000. DOER considered the October 1- 5 inventory as a baseline inventory for this program. The total amount of oil held in inventory on the October dates by winning bidders at awarded locations was 21,325,794 gallons (507,757 barrels). This amount, together with the two rounds of awards, totaled 53.25 million gallons (approximately 1.3 million barrels) of oil that would be stored in Massachusetts through January 15, 2001.

Program results indicate that actual heating oil volumes held were slightly lower than contract awards.

Compliance monitoring efforts indicated that contractors met the program storage requirements, with two exceptions. In the first instance, a program participant allowed stored volumes to fall below required levels and DOER reduced payment to the company accordingly. Final reconciliation in the second instance was still pending at the time of publication of this report. Program results at this time show that actual program inventory levels were 29.8 million gallons. The recalculated baseline inventory level was 42.3 million gallons. Total program payments will be approximately $4 million and the final cost per gallon of oil held for the program will be $0.134.

The total amount of program oil equaled about a 7-day supply for residential customers.

Historically, the amount of heating oil consumed per day in December and in January for Massachusetts' residential customers is roughly 4 million gallons. Therefore, the 29.8 million gallons of oil held as a result of the program would have been sufficient to provide all the oil consumed by residential customers in the state during a seven-day period, if no other oil came into Massachusetts and tanks were completely drawn down. The total amount held—the baseline plus the oil bid for the program—equaled about ten days of supply.

During the program, heating oil inventory levels were higher than expected despite colder weather.

New England had much higher-than-expected inventory levels for both December 2000 and January 2001—the two-month period comprising the program. New England's December and January heating oil inventory levels this winter were 4.7 and 5.6 million barrels, respectively. Based on past inventory level trends and this winter's colder-than-normal weather conditions, DOER's computer simulations showed that December and January inventory levels would have been far less at 2.8 and 1.3 million barrels, respectively. The Massachusetts inventory program was not the only factor behind such an increase in heating oil inventories, but it was an additional factor that was unique to the current heating season.

Wholesale prices in Massachusetts were 2-3 cents per gallon lower than in surrounding states.

Compared to historical prices in neighboring states, wholesale "rack" prices for heating oil in Massachusetts were lower during the program. The 2000/2001 rack prices in Boston, MA averaged $0.0283 per gallon less than the two-year average in Newington, NH and $0.0213 per gallon less than the 4-year average. Compared to Providence, RI, Boston prices were $0.0232 per gallon less over the past two years and $0.0234 per gallon less than the prior four-year average. Given the amount of heating oil normally purchased during this period of the year (4 million gallons per day) this represents a reduction in price of approximately $2.7 million to $3.6 million.

INTRODUCTION

During the winter of 1999-2000, the entire northeastern United States experienced sharp price increases and declining inventories of home heating oil. In Massachusetts, retail prices which had averaged $0.98 per gallon at the beginning of the heating season, rose sharply to just over $2.00 a gallon by February. The price surge resulted from a combination of increased crude oil prices, low levels of heating oil in storage (known as "inventory" or "stocks"), extremely cold weather, and supply transportation problems.

Heating oil inventories provide a critical buffer against weather extremes and transportation problems. In September of 2000 they were more than 60% lower than at the same time a year earlier. Market indicators suggested that inventories would not be increased to an appreciable degree before the heart of the winter arrived. Wholesale heating oil distributors were not building inventories. They reported concerns that if they bought oil at high prices at the start of the winter they would be unable to recover those prices later, if wholesale oil prices fell.

At the same time, world oil production continued to be tight relative to demand leading to decreases in the overall supply of heating oil and increases in the price. Various agencies such as the U.S. Department of Energy (DOE) warned that the past few winters had been relatively warm compared to normal and that weather forecasters were predicting cold to colder-than-normal temperatures for winter 2000/01. The DOE's Energy Information Administration (EIA) forecasted consumers' heating oil costs would increase by about 18% over the previous year when prices were already up by nearly 50% from the year before that.

In response to these concerns, Massachusetts Governor Argeo Paul Cellucci proposed several legislative actions to address Massachusetts' high heating oil prices and low supplies.[1] This report focuses on one of those actions—the Massachusetts Heating Oil Inventory Program. The goal of the first-in-the-nation program was to reduce the risk of supply interruptions for consumers during the 2000/2001 winter by giving incentives to oil distributors to purchase and store oil in December and hold it until mid-January. On November 9, 2000, the Legislature approved, and Governor Cellucci signed into law, a $5 million appropriation directing DOER to develop the program.

The purpose of this report is to provide an evaluation of the final results and impacts of the program in terms of costs and benefits. Since several other states showed interest in replicating the program, a second purpose is to outline the program's development and implementation with accompanying program documents.

[1] Among a number of preventative actions, the Governor and Legislators urged the federal government to take several necessary precautions before the winter of 2000-2001, such as the early release of the federal Low Income Home Energy Assistance (LIHEAP) funds, in order to help consumers. The Commissioner of Energy Resources advised consumers throughout the summer of 2000 to seek fixed or capped retail heating oil price programs that heating oil dealers were offering. DOER also informed consumers about available energy efficiency and conservation options, especially conservation programs offered by utility companies.

OUTLINE OF REPORT

Chapter 1 contains background information about the Massachusetts heating oil marketplace and describes the relationship between distillate number two oil inventory levels and retail heating oil prices.

Chapter 2 describes the concerns facing New England as the 2000-2001winter heating season approached.

Chapter 3 outlines the Program's goals and guidelines. This chapter presents the details of monitoring procedures for program compliance, and discusses the Commonwealth's payments to winning bidders.

Chapter 4 provides an evaluation of the program's impacts on inventories and wholesale and retail prices.

Chapter 5 contains a step-by-step explanation of the administration of the program.

The appendices contain the emergency regulations promulgated by DOER to implement the program and supporting program documents.

CHAPTER 1: THE IMPORTANCE OF HEATING OIL INVENTORIES

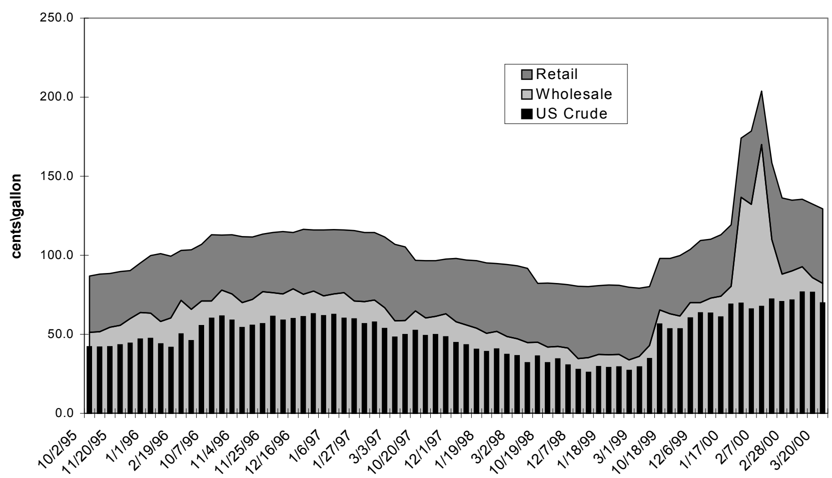
Problems During Winter 1999-2000

High crude oil prices coupled with low heating oil inventories contributed to $2.00 per gallon retail heating oil prices.

During the winter of 2000, the entire northeastern United States experienced sharp price increases and declining inventories of home heating oil. In Massachusetts, retail prices averaged $0.98 per gallon at the beginning of the heating season and slowly climbed to $1.19 by January 17, 2000. The statewide average price a week later was $1.74 per gallon, an increase of 46%. Prices continued to rise until February 7th when they averaged $2.04 per gallon. This price represented an unprecedented increase of 108% since October 1999. The retail price surge resulted from a combination of increased crude oil prices, low stocks of heating oil, extremely cold weather in January, and supply transportation problems.

Crude oil prices rose from $10 to $30 a barrel throughout 1999 due to OPEC reductions in supply. Since petroleum products are refined from crude oil, the crude oil price increase alone translated to a $0.50 a gallon increase in heating oil. The bulk of the crude oil price increase was already passed on to retail prices by mid-January 2000. As shown in Figure 1, crude oil prices did not show a price spike in mid-January as did Massachusetts wholesale and retail heating oil prices.

Figure 1
Wholesale and Retail Prices for No. 2 Heating Oil in MA Compared to U.S. Crude



Source: DOE/EIA, DOER

The surge in retail prices from $1.19 to $2.04 from mid-January to February 2000 was mainly due to low heating oil inventories, tight supplies that did not keep pace with increased demand. New England entered a two week January cold spell with heating oil inventories at approximately 7.5 million barrels. At the same time in the prior two years, New England heating oil stocks were at 9.5 and 13.8 million barrels, respectively. In a typical heating season stock drawdowns would be gradual throughout the winter with anywhere between 200,000 to 500,000 barrels drawn down per week after December. Between January 7 and 14, 2000, New England experienced a one million barrel draw down in heating oil stocks. The stock drawdown between January 14 and January 21 was an unprecedented 2.1 million barrels due to the frigid weather. By the first week of February, heating oil stocks were down to only 2.9 million barrels, representing about 10 days of residential oil supply for the region.

Throughout this period, the terminal operators either voluntarily allocated heating oil to dealers to prevent hoarding of supplies or dispensed product only to their regular oil dealers as opposed to some "discount" dealers.[2] Some terminals experienced product outages for either a few hours or a day or two. In those cases, dealers drove to the next terminal to find product. Consequently, retail prices spiked to $2.04 a gallon.

Exacerbating the situation, were high winds and frozen waterways which hampered arrivals of new supplies. Additionally, the shutdown of a couple of East Coast refineries due to mechanical problems slowed the availability of new supplies from these refineries. Any new supplies that did arrive were expensive and quickly used so price relief was minimal.

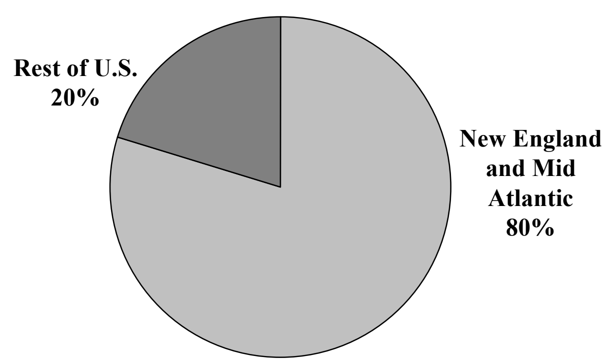
Nonetheless, Massachusetts state agencies worked with oil industry representatives and federal agencies to alleviate the situation. Although retail price increases abated as additional supplies became available in February, the price spikes created economic hardships and adversely effected the lives of the Commonwealth's citizens. While these difficulties were not unique to Massachusetts, the New England and Mid-Atlantic states rely much more heavily on heating oil compared to the rest of the country. The next section provides a regional overview of heating oil consumption, placing Massachusetts in the context of New England and the United States.

New England Heating Oil

New England and the Mid-Atlantic states are the heaviest users of number 2 oil for space heating in the United States.

New England and the mid-Atlantic states consume almost 80% of all the residential heating oil used in the United States, as shown in Figure 2. Compared to other refined petroleum products such as gasoline or diesel fuel, the heating oil market is a limited market both in dollar volume and geography. Heavy demand and high prices for these other petroleum products reduce the incentives of refiners to produce heating oil until the price gets comparably high.

Figure 2
Residential Sales of No. 2 Distillate Fuel Oil in U.S. 1999

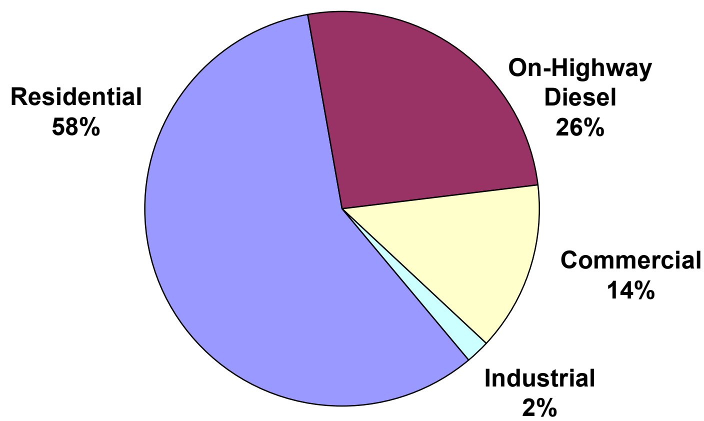


Source: DOE/EIA

[2] Dealers who do not have contracts with terminals.

Most of the distillate oil shipped (about 58%) to New England is used for residential space heating.

Figure 3
Distillate Fuel Use by Sector in New England, 1999



Source: DOE/EIA

In New England, about 58% of the distillate oil[3] is used for residential space heating, as shown in Figure 3. The bulk of this is used only during the months from November to March.[4] Diesel fuel use accounts for only 26% and commercial and industrial uses for only 16% together. Outside the New England and mid-Atlantic regions, these proportions are radically different: natural gas provides for the bulk of space heating, and heating oil is hardly used at all. In Massachusetts, however, almost one million households heat with oil.

---

[3] Generally, distillate fuel is No. 2 heating oil as used in residences and diesel fuel.

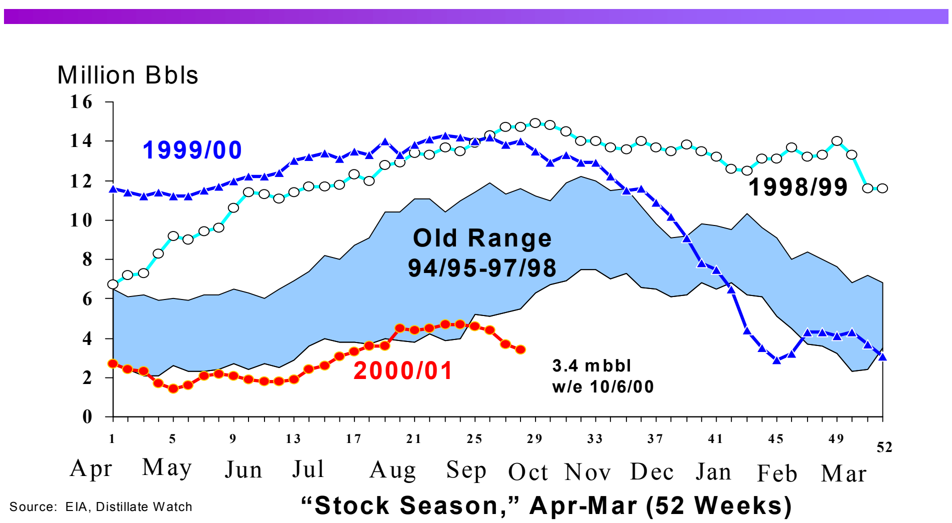
[4] Much of the heating oil New England consumes is refined in the fall by refineries along the Gulf Coast and foreign refineries and is immediately delivered to the market for consumption in the winter. However, a critical portion of the region's winter heating oil supplies comes from inventories usually built up over the summer that have been placed in short-term storage.

CHAPTER 2: FACING THE WINTER OF 2000-2001

Potential Heating Oil Shortages and Price Volatility For the 2000-2001 Heating Season

Heating oil inventories were at historic low levels and only about one-fourth the level at the start of the previous heating season.

Figure 4
Heating Oil Stocks in New England



At the beginning of October 2000, New England's heating oil inventories stood at approximately 3.4 million barrels. That is one-fourth the level at the same time a year earlier in 1999 when inventories were 14 million barrels. Figure 4 shows that the 3.4 million barrels were below the low end of the range of heating oil stocks over the five-year period from 1994-1997. U.S. inventories of distillate fuels (that includes both heating oil and diesel) were also very low, about 25% lower than the beginning of the 1999 heating season. As the 2000-2001 heating season began, the distillate market system simply did not have much distillate in storage anywhere. These inventory figures were very troubling to state officials. It was the extremely low inventory levels during the January 2000 cold snap and fears of an interruption in the arrival of new supplies that led to high retail prices. Inventories are important because they provide a buffer in times when deliveries to the region are interrupted due to severe weather or other disruptions in the supply chain. These severe weather events are usually accompanied by surges in demand and as a result, the price at wholesale and retail levels increases.

Crude oil prices were extremely high and there was uncertainty if they would increase or drop.

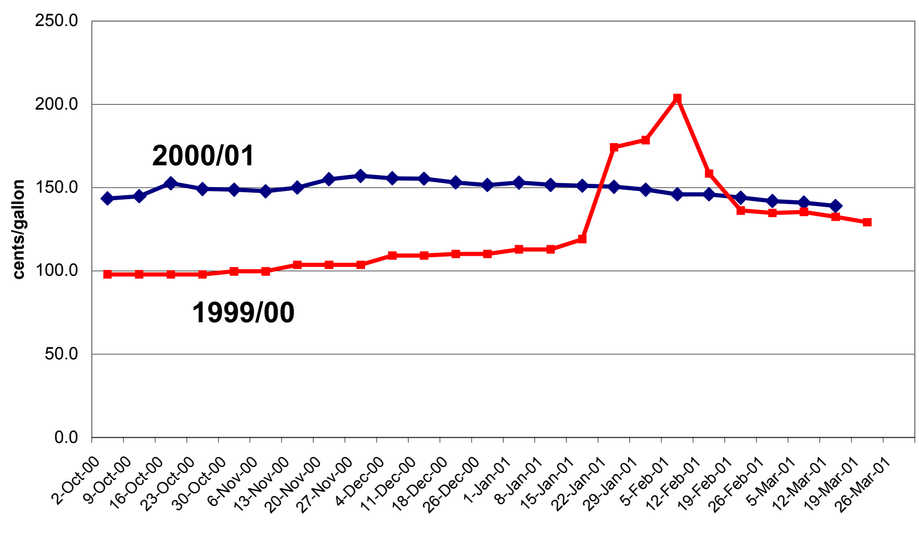
Compounding the inventory problems was the fact that crude oil prices continued to remain very high as compared to historic prices. As a result, petroleum product prices such as heating oil were also high. There was also much uncertainty on the world markets about crude oil prices, whether they would remain high or drop.

In September 2000, spot crude oil prices averaged above $30 per barrel, but had topped over $35 per barrel. The last time crude oil prices were that high was 10 years ago during the Persian Gulf War. The $35 a barrel oil was in stark contrast to prices only two years ago in late 1998 when spot crude oil prices reached a record low of about $11 per barrel.

In October, Massachusetts retail heating oil prices were 50% higher than the previous year.

The high crude oil prices contributed to higher average wholesale prices for all refined products and thereby to higher average prices for retail products, including home heating oil. Retail prices at the beginning of the 2000-2001 heating season were already higher than those prices at the start of the 1999-2000 heating season. In October 2000, Massachusetts' statewide retail heating oil prices averaged $1.48 per gallon with some as high as $1.60 per gallon. Prices had already increased about $0.23 per gallon since August 2000. In contrast, in October 1999 at the beginning of the heating season retail heating oil prices were $0.98 per gallon. (When crude oil prices were $11 per barrel, Massachusetts retail heating oil prices were only $0.80 per gallon). Thus, Massachusetts was entering the 2000-2001 winter with retail prices about 50% higher than the previous year. Figure 5 shows a comparison of Massachusetts' retail heating oil prices for the past two heating seasons.

Figure 5
Massachusetts Heating Oil Prices



Source: DOER

Increases in world crude oil production would not eliminate heating oil market vulnerability.

In September 2000, the Organization of Petroleum Exporting Countries (OPEC) announced that it would increase crude oil production by 800,000 barrels per day. This was welcome news because any increase in crude oil would be helpful. However, most analysts believed that the increased amount might reduce prices somewhat but, given the continued high levels of world oil consumption, the supply increase was not expected to be enough to significantly increase inventories of crude oil and therefore not increase heating oil supplies. In addition, the crude oil would not even be delivered to U.S. refineries for several weeks and then it would take them a few weeks to refine and ship heating oil. On the other hand, if the price of crude oil did drop it might have helped allay fears of refiners and distributors that they would not recover those prices over the course of the winter. It might have also encouraged refiners to refine more heating oil and encourage distributors to put more heating oil in storage at a faster rate. In short, all of this may have reduced, but would certainly not eliminate, New England's and Massachusetts' heating oil vulnerability given the other factors mentioned in this report section.

Massachusetts heating oil suppliers did not want to store heating oil if they might lose money.

Given all these uncertainties, wholesale heating oil suppliers were not building inventories because they feared that if they bought oil at high prices early in the heating season, they would be unable to recover those prices later. At the beginning of the heating season, the heating oil market was in "backwardation." In other words, the future price of heating oil for the coming winter months was less than the current prices. If suppliers bought heating oil in September and stored it, they could potentially have to sell it for less than they paid for it. Wholesale heating oil suppliers were implementing "just-in-time" inventory practices.

Cold to colder-than-normal temperatures would also lead to price spikes and increases in consumer heating bills.

Despite the January/February 1999 price spike, the 1999-2000 heating season was warm overall. New England was about 8.5% warmer than normal during that period. (In fact, New England had experienced four warm winters in a row from 1996 to1999). If the weather for the 2000-2001 winter was just normally cold or colder than average, residential customers would have to purchase more oil, and demand would drive retail prices higher on average. As of October 2000, the U.S. Department of Energy was forecasting that consumers in the Northeast would pay, on average, about $190 more for heating oil this winter compared to last year, if weather was normal.[5] State officials were concerned that if low inventories persisted through the winter, cold weather events would make supplies extremely scarce and short-term prices highly volatile.

[5] "Short-Term Energy Outlook, October 2000," U.S. DOE, EIA.

CHAPTER 3: A STRATEGY TO BUILD INVENTORIES

Innovative Strategies to Deal with the Situation

Governor Cellucci filed a bill with the Legislature recommending funding for programs to mitigate the effects of high fuel costs and reduce the risk of heating oil supply interruptions.

Due to the concerns about the potential situation, Massachusetts and New England state officials took a number of actions to avoid heating oil problems. In particular, Governor Cellucci asked DOER to devise strategies to increase Massachusetts' heating oil supplies to avert shortages and soaring oil prices.

DOER recommended two new programs to the Governor. The first was a Massachusetts heating oil inventory program that would give incentives to oil suppliers to increase heating oil inventories at least through the middle of the winter. The second was a heating oil rebate program that would reduce oil consumption by installing high efficiency heating systems in about 10,000 Massachusetts oil-heated households' and installing automatic heating controls. The Governor filed a bill recommending Fiscal Year 2001 supplemental appropriations for both of these programs with the Legislature in October. (The bill also included $12 million for fuel assistance to low-income households and $10 million for a reserve for state agency fuel cost increases).

In November 2000, the Legislature passed funding for the Massachusetts Heating Oil Inventory Program.

The Legislature was also concerned that the low heating oil inventory levels would not be adequate to meet consumer demand during the winter. Therefore, on November 9th, the Legislature approved and Governor Cellucci signed into law a $5 million appropriation directing DOER to develop and implement the Massachusetts Heating Oil Inventory Program. The goal of the first-in-the-nation program was to reduce the risk of supply interruptions for consumers during the 2000/2001 winter by providing a monetary incentive to oil distributors to purchase and store oil in December and hold it until mid-January. Basically, the program would pay the "carrying costs" – the cost of storage of the oil—and some of the negative "spread" – the difference between the November price of oil and the future price of oil in January. However, if profits were realized on the sale of program oil held by a supplier, the state would first void any of the carrying cost payment obligation and then receive 50% of any remaining profits.

Winning bidders had to agree to hold oil until mid-January, unless the market dictated otherwise.

Essentially, the winning bidder(s)[6] were expected to purchase and store a minimum of 10,000 barrels of #2 fuel oil ("bid block" or "block"). The bidder could submit bids for one or more blocks, and had to specify a bid price and specific storage location for each block. As explained

[6] A bid selection committee comprised of the Commissioner of DOER, the Director of the Office of Consumer Affairs and Business Regulation, and the Director of the Operational Services Division, or their respective designees considered all qualified bids.

below, DOER conducted two rounds of bids. Depending on whether the bid was submitted in Round 1 or Round 2 of bid awards, the contractor had to purchase and deposit the oil in the storage facilities specified in its bid on or before December 8, 2000 or December 22, 2000, respectively. Winning bidders were required to hold the oil until January 16, 2000 (6 a.m.) (end date). Thereafter, the winning bidders could release program oil for sale to Massachusetts consumers.

The decision to release oil before the program end date was left to the winning bidders. If the market dictated a need for oil, and winning bidders decided to use the program oil, winning bidders could sell the oil before the program end date (early release). Notification of an early release had to be provided to DOER on the date of the early release. Because early release of program inventory was contrary to the goals of the program, an adjustment would be made to reduce the payment to a winning bidder that executed an early release. The payment adjustment provided an incentive to winning bidders to store the oil until the program end date.

The Commonwealth would share in any profits made on program oil.

If the sale of program oil resulted in profits, the Commonwealth's payment to the applicable company would be reduced. If the companies owed the Commonwealth money pursuant to profit sharing, their payments first would be used to pay down the Commonwealth's bid price payment obligation. Profits earned by the program participants from the sale of program inventory that exceeded the bid price payments would be divided evenly between the participant(s) and the Commonwealth.

Bids were based on the amount (cents/gallon) bidders offered to participate in the program. The Commonwealth did not buy or pay for the cost of the oil.

The bids were not based on the cost of the oil. The Commonwealth did not purchase the oil nor did it pay the winning bidder for his/her purchase price of the oil. Rather, the program provided that the Commonwealth would pay winning bidders on a cents/gallon basis an amount that bidders offered (nominated) in order to participate in the program. Generally, a bid included the carrying cost of the oil and any anticipated losses due to market backwardation.

Bids were ranked to achieve minimum target volumes in four Massachusetts geographic regions and by price.

To increase reliability of supply and reduce the time needed for heating oil distribution to all population areas, one program bid selection criterion was to store minimum target volumes in four regions of the state. The delineated boundaries of the four regions are depicted on the program map in Appendix A. The minimum target volumes per region were:

Boston-Metro:	400,000 barrels
Northeast:	100,000 barrels
Southeast:	200,000 barrels
Western:	100,000 barrels

To meet this criterion, the bid selection committee first segregated the bids based on the geographical region of the storage facilities identified in the bid(s). Bids were then ranked within each region by price, from low bid to high bid. The selection committee conducted an initial round of bid selection by selecting the lowest priced bids (in program block increments) within each region, independent of the other program region bids, up to the required minimum volume for each region. However, even if the minimum target volumes were not reached in the initial round of bid selection, DOER reserved the right to refuse bids if the selection committee determined the bids for any region were not in the best interest of the program.

First round of bids awarded yielded 23.10 million gallons (550,000 barrels) of heating oil.

On November 15, 2000, DOER completed an initial bid selection. Four companies were awarded contracts that required them to buy and store 23.1 million gallons (550,000 barrels) of heating oil to be held from December 8, 2000 through January 15, 2001. The oil was to be stored in terminals in Everett, Revere, Springfield and Stoughton, MA. The bids for these awards totaled $3.3 million. Since DOER had total program funds of $5 million and only awarded $3.3 million in the first round, DOER opted to hold a second round of bids for the remaining $1.7 million.

Second round of bids awarded generated an additional 8.82 million gallons (210,000 barrels).

On November 28, 2000, DOER held an additional bidding round for the $1.7 million in remaining program funds. Five companies, two of which participated in the earlier round, were awarded bids. Heating oil supplies for this round had to be in storage by December 22, 2000. Supplies were to be held in Chelsea, New Bedford, Jamaica Plain, Quincy, Sandwich, and Springfield, MA.

The seven winning companies were required to hold a total of 53.25 million gallons (1,267,757 barrels) of heating oil in Massachusetts as a result of additional program requirements.

In addition to holding the amount of oil in their bids, winning bidders also were required to hold in storage in Massachusetts an amount of #2 oil that was greater than or equal to the average amount of oil they had in storage on October 1 – October 5, 2000. DOER considered the October 1- 5 inventory as a baseline inventory for this program. The total amount of oil held in inventory on the October dates by winning bidders at awarded locations was 21,325,794 gallons (507,757 barrels). This amount, together with the two rounds of awards, totaled 53.25 million gallons of oil or almost 1.3 million barrels that would be stored in Massachusetts through January 15, 2001.

Program results indicate that actual heating oil volumes were slightly lower than contract awards.

Efforts to monitor contractor performance indicated that winning bidders met the program requirements, with two exceptions.[7] The two exceptions caused actual program heating oil volumes held in storage to be lower than projected. Program results at this time show that the actual program inventory level was approximately 29.8 million gallons. The recalculated baseline inventory level was 42.3 million gallons.

---

[7] See Chapter 5 for discussion of program monitoring and actual expenditures.

The total amount of program oil equaled about a 7-day supply for residential customers in Massachusetts.

Historically, the average amount of heating oil consumed by Massachusetts' residential customers per day in December and January is about 4.1 million gallons.[8] Therefore, the 29.8 million gallons of oil actually held as a result of the program would have been sufficient to provide all the oil consumed by residential customers in the state during a seven-day period, if no other oil came into Massachusetts and tanks were completely drawn down. The total amount held, the baseline plus the oil bid for the program, equaled about ten days of supply. During cold snaps, however, residential demand is probably greater so that supplies are drawn down more quickly so the program supply could be less than a seven-day supply.

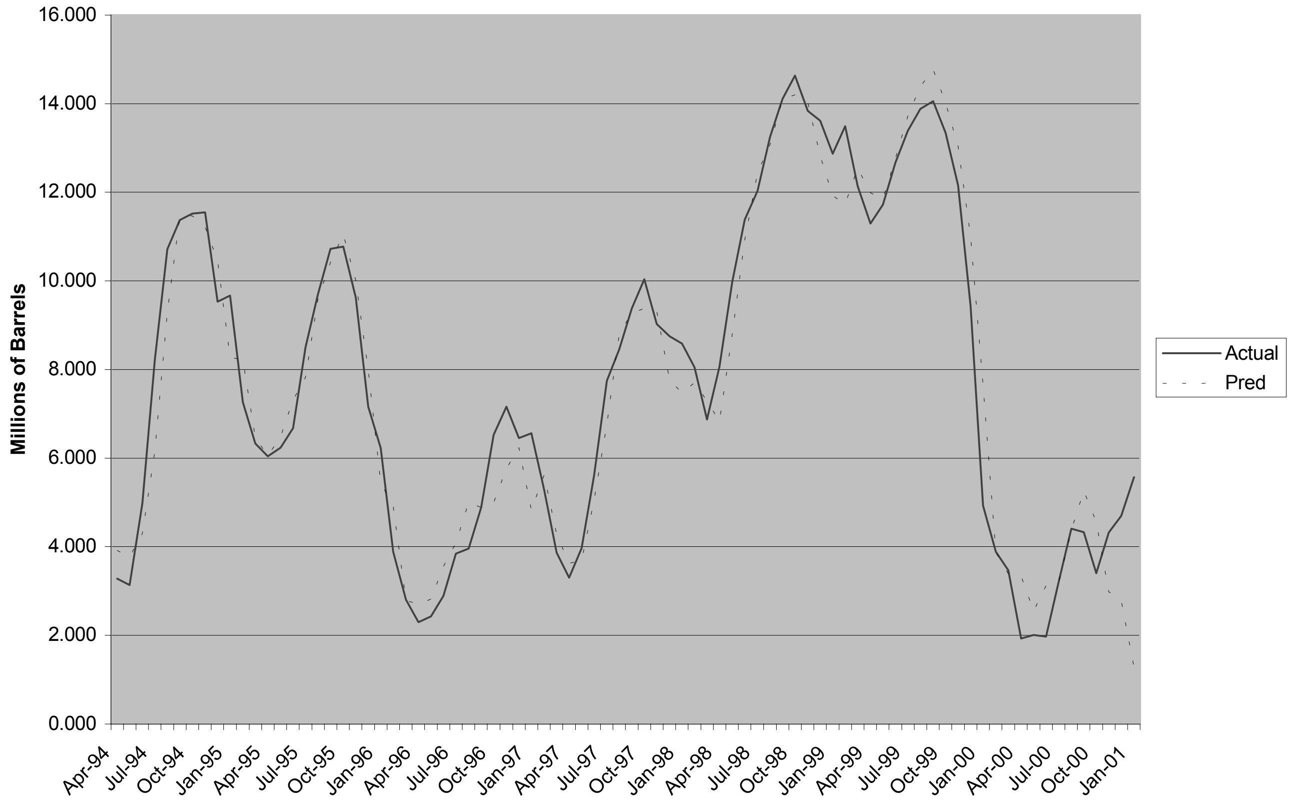
[8] Data calculated from five-year average for December and January number 2 fuel oil sales for Massachusetts. "Prime Suppliers Monthly" reports and "Fuel Oil and Kerosene Sales" annual reports, U.S. DOE/Energy Information Administration.

CHAPTER 4: PROGRAM IMPACTS

Heating oil inventory levels were higher than expected despite colder weather.

As previously mentioned, the heating-oil inventory program resulted in approximately 29.8 million gallons of additions to Massachusetts inventory levels. By way of further characterizing the program's impacts, DOER simulated what inventories would have been assuming past trends and the colder-than-average weather for December and January. Figure 6 shows the results of this simulation.

Figure 6
New England Heating Oil Inventories (Actual vs. Predicted), April 94-Jan 01



Source: DOE/EIA, DOER

The solid line represents historical data showing millions of barrels of heating oil in New England.[9] The dotted line represents a simulation that models the movement of inventories.[10] Though more complex formulations were possible, the above model provides a relatively accurate

[9] "Distillate Watch", weekly issues, DOE/EIA.

[10] The form of the model is as follows: Inventory Level = a + b*Prior Months Inventory Level + c*Monthly Heating Degree Days + Error Term. All coefficients (a, b, c) had the anticipated sign and were significant at a 99% confidence level.

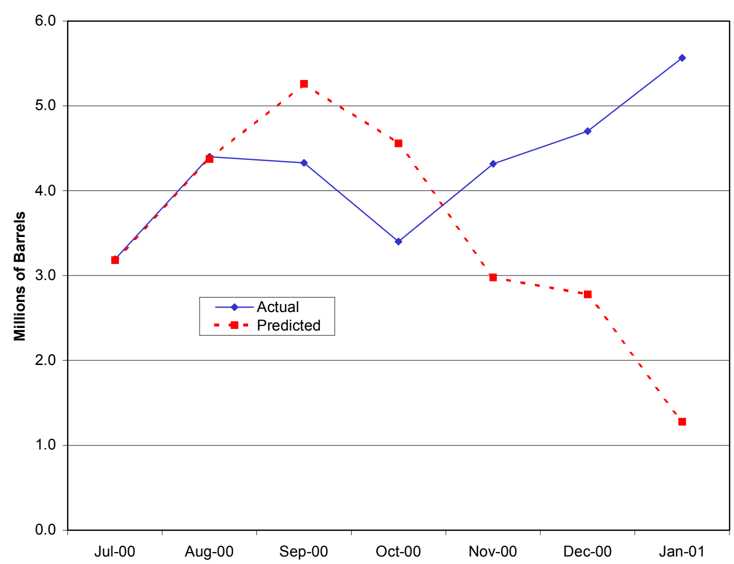
forecast of the volatile, though somewhat seasonal, nature of heating oil inventory levels. Of particular interest to program evaluation is the time period of the program. Table 1 shows the above data for the months July 2000 to January 2001.

Table 1
New England Heating Oil Inventory Levels (Actual and Predicted)
July 2000 to January 2001 (millions of barrels)

	Actual	Predicted	% difference (+/-)
July 2000	3.2	3.2	0
August 2000	4.4	4.4	0
September 2000	4.3	5.3	-19
October 2000	3.4	4.6	-26
November 2000	4.3	3.0	+43
December 2000	4.7	2.8	+68
January 2001	5.6	1.3	+330

As shown in Table 1 and Figure 7, the model does an excellent job forecasting the non-peak usage periods—the model correctly predicted the July and August 2000 inventory levels. Divergence begins to occur in September and October as the model over-predicts inventory for these two months. This over-prediction is due to past data that show gradual increases in inventory over the fall months. However, this was not the case for the 2000-2001 heating season. After this buildup, the model then shows reduced inventory levels, largely due to colder weather during December (and prior months). Such a finding compares to actual inventory levels that show a positive trend in supplies. In sum, based on past trends in inventory levels and the existing weather conditions, New England achieved higher than expected inventory levels for both December 2000 and January 2001, the two months of the program. Clearly, the inventory program was not the only factor behind such an increase, but it was an additional factor that was unique to the current heating season.[11]

Figure 7
New England Heating Oil Inventories (Actual and Predicted)
July 2000-January 2001



Source: DOE/EIA, DOER

[11] The state of Rhode Island instituted a similar Inventory Program for the winter 2001/2001. In addition, the Federal government created a strategic heating oil reserve in New Haven, CT.

Wholesale prices in Massachusetts were lower 2-3 cents lower than in surrounding states.

Given greater-than-expected inventories, one would expect reductions in price, especially in those areas where the program was directly increasing inventory levels. Table 2 compares wholesale rack prices for three cities over the last five years for the time period December 8 to January 18.

Table 2
Average Wholesale Rack Prices for Heating Oil, December 8 to January 18
(cents/gallon)

	Boston, MA	Providence, RI	Newington, NH
2000/2001	0.9544	0.9822	0.9804
1999/2000	0.7241	0.7283	0.7208
1998/1999	0.3570	0.3621	0.3557
1997/1998	0.5318	0.5361	0.5451
1996/1997	0.7552	0.7592	0.7651

Source: OPIS, DOER

The table shows that Boston, MA generally featured the lowest prices among the three cities. More importantly, the data show that this differential increased during the months of the program compared to prior years. Thus, 2000/2001 rack prices in Boston averaged $0.0283 per gallon less than prices in Newington over the past two years and $0.0213 per gallon less than prices in Newington over the prior 4 years. Compared to Providence, Boston prices were $0.0232 per gallon less over the past two years and $0.0234 per gallon less against the prior four-year average. Given the amount of heating oil normally purchased during this period of the year (4 million gallons per day) this represents a reduction in price of approximately $2.7 million to $3.6 million.[12] It is not possible to say with certainty that the inventory program was completely responsible for reduced wholesale prices, but it is likely to have been an important factor.

Massachusetts retail heating oil prices remained around $1.50 per gallon in December and January with no price spikes even though the weather was about 10% colder than normal.

Although heating oil prices climbed from $1.43 a gallon in October to about $1.55 a gallon as of the beginning of December 2000, Massachusetts retail heating oil prices receded to $1.50 by mid-December and remained there through mid-January (program end date) with no price spikes.

[12] Assume 4 million gallons per day x $0.021 per gallon x 32 days (average # of days between the two program rounds) = $2.688 million. At the higher end, assume 4 million gallons per day x $0.028 x 32 days = $3.584 million.

CHAPTER 5: PROGRAM ADMINISTRATION

Program Development and Requirements

Oil industry expert consultant provided technical assistance to DOER.

DOER, through a Request for Responses (RFR) process, hired a consultant to provide technical assistance in the design and development of this pilot program. DOER required that the consultant have extensive knowledge of the heating oil and commodities ("Futures") markets; heating oil supply management; the Massachusetts wholesale heating oil market; the heating oil distribution system in New England and Massachusetts; and price risk management programs and index tools for oil distributors. After considering three respondents, DOER selected Mr. Lewis DeRosa of Petrohedge, Inc.[13]

Mr. DeRosa assisted DOER in the conceptual design of the program. DOER then reviewed that design with wholesale oil suppliers and, based on their suggestions, made various minor changes the design. Mr. DeRosa also reviewed and critiqued documents prepared by DOER that were used to solicit bids from heating oil distributors to purchase the "insurance option" of holding oil and recommend criteria to be used by DOER to select bidders.

DOER solicited heating oil inventory bids through a competitive process.

DOER used a competitive process to solicit and select bidders to store the oil. Not only did DOER post the RFR on the Commonwealth's website for Procurement Access and Solicitation System (Comm-PASS), DOER also sent the RFR out to many oil companies who requested the RFR. The first Comm-PASS posting was on November 10, 2000 with a bid response date of November 15, 2000. The RFR was amended and re-posted for the second round of bids scheduled on November 28, 2000. The posting included the RFR and for informational purposes, the emergency regulations. (See Appendices B and C). DOER held a Bidders' Conference on November 13, 2000.

Potential bidders were pre-qualified for "doing business in Massachusetts."

Among the several requirements to be eligible to bid for the program, the oil distributors had to be doing business within Massachusetts. They also had to have title to or contractual arrangements to Massachusetts heating oil storage facilities with a combined total storage capacity of 10,000 barrels or greater.

In order to do business with reputable companies, DOER required potential bidders to identify and certify any finding, report, complaint, consent decree, etc. with any federal, state or local regulatory agency having jurisdiction over the company relating to any actual or alleged violation of municipal, state, or federal law or regulation. Disclosure was also required regarding any material consents and agreements with any tax authority or any pending or threatened material disputes concerning tax matters. DOER also required a description of any material threatened

[13] Consulting costs were not deducted from the $5 million Inventory Program appropriation.

litigation or pending bankruptcy of the company, including description of parties, nature of actions and remedies sought. (See Appendix D). DOER reserved the right to revoke the eligibility of any program participant if at any time DOER determined that any information in the participant's pre-qualification submission or bid documents proved to be false or misleading. In addition, winning bidders were required to store program oil in Massachusetts and could not sell or deliver program oil outside of the Commonwealth.

Any program payments to winning bidders were based on a formula.

DOER developed a payment formula for both the blocks held until January 16, 2001 and for blocks for which DOER received early release notification. Formulas were as follows:

Blocks held until 1/16/01 - Payment in $/gallon = A–(B+C)–D

Oil released earlier than 1/16/01 - Payment in $/gallon = A–(E+C)–[D–(.0027 x F)]

A = Five day average of OPIS average rack price for the Inventory Release Date (Jan. 16, 2001) and the four following business days.
B = Five day average of February Heating Oil Futures Settlement Price on Jan. 16, 2001 and the following four business days.
C = Cash Basis Differential, the difference, as of the Bid Date, between the February Heating Oil Futures Settlement Price and the Bidder's local cash market price.
D = the Bid Price.
E = Five day average of February Heating Oil Futures Settlement Price on the Early Inventory Release Date and four following business days.
F = Number of days between the Early Inventory Release date and January 15, 2001, inclusive.

In calculating the payments using this formula, a negative number would mean that the Commonwealth makes a payment to the companies, but never more than their bid price times the number of gallons they were contracted to hold. A positive number would represent a profit to be split by the company and the Commonwealth (see Chapter 3).

Performance Monitoring

DOER implemented a weekly inventory-monitoring program.

DOER developed a simple reporting procedure to monitor the inventories for the program and confirm companies' performance under contract terms. Winning bidders had to complete DOER's "Oil Inventory Program Report" form each week of the program. Filing start dates depended on whether the company had to store inventory as of December 8, 2000 or December 22, 2000, pursuant to the first or second rounds of solicitations, respectively. Each Friday, companies were required to record their terminal's program heating oil inventories and report them to DOER on this form. In addition, the companies were required to attach their companies' internal reports used for measuring and monitoring heating oil inventories. Each week, DOER checked the companies' reports on inventory amounts against companies' program obligation (bid volume plus baseline volume).

DOER conducted on-site terminal inspections of company records.

DOER's regulations specified that DOER had the right to enter the storage facilities of program participants to inspect the program inventory on site, and associated documents, at any time. DOER staff exercised this right, conducting inventory inspections on December 15 and 22, 2000, and January 12 and 15, 2001. Of the seven locations inspected, five were found to have the required program inventory in storage.

One company's inventory was found to be below the program storage requirement during the December 15, 2000 inspection. The company agreed to immediately meet the program's "in storage" volume requirement, and DOER reduced its potential program payment to the company by more than $375,000.[14] A follow up inspection on January 15, 2001 indicated that the company met the program inventory requirement.

DOER found that another participating company did not have the required program inventory volume in one location on the last day of the program, January 15, 2001. DOER has asked the company for the terminal's heating oil records. As of the publication date of this report, DOER has not resolved this matter. [15]

Program Payments

Program oil was held until program end date as no company opted for early release of oil.

None of the companies notified DOER during the program that they were releasing the oil to the market before the end date of the program. Therefore, DOER calculated the companies; program payments according to the program formula. Each company received, or is scheduled to receive some payment from the Commonwealth. There will be no revenue sharing with the Commonwealth.

Total program expenditures were less than the full appropriation.

As previously mentioned, DOER monitoring of the program identified two companies that did not fully meet the required program inventory obligations. DOER resolved the issues with one company and reduced the company's program payments by $375,940. Final reconciliation in the second instance was still pending at the time of publication.

DOER will not pay out the total $5 million appropriated for this program. Rather, total program payments will be approximately $4 million.[16] Given the actual storage of 29.8 million gallons, the average cost per gallon of oil held in storage will be $0.134.

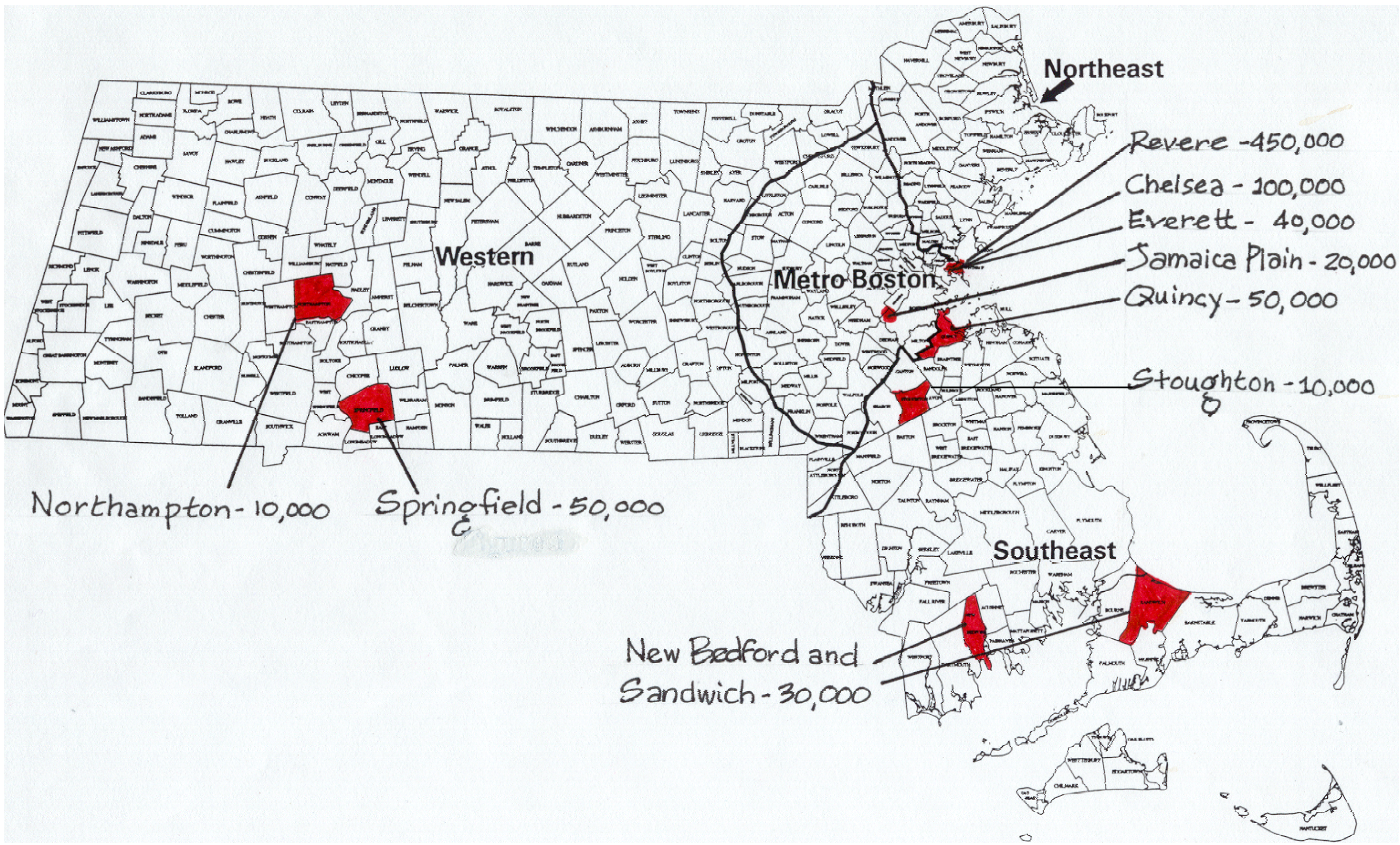
---

[14] Under the program's regulations section 13.08(1), the company petitioned DOER for a storage date modification for their award. The petition was granted.

[15] Due to this unresolved issue, DOER has not included the company's oil inventory award in actual oil calculations in this report.

[16] The final amount paid by the Commonwealth will not be known until the resolution of payment is reached with respect to one of the program participants.

Heating Oil Inventory Program Participant Locations



Appendix B

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ENERGY RESOURCES

REQUEST FOR RESPONSE

PARTICIPATION IN OIL INVENTORY PROGRAM

I. INTRODUCTION

The Division of Energy Resources (DOER) is a state agency whose mandate is to analyze and develop policies and programs to ensure that Massachusetts' citizens have adequate, diverse energy supplies, at a reasonable cost, with a minimal impact on the environment.

The DOER has found evidence suggesting that citizens of the Commonwealth may face a potential shortage of #2 heating oil ("oil") during the next few months (winter months of 2000 -2001). This unusual situation is caused in part by current low inventories of oil stored in the Commonwealth and oil futures prices that are lower than current prices, providing a disincentive for suppliers to purchase and store oil now for sale later this winter.

To reduce the risk of any potential shortage or supply interruption anywhere in the Commonwealth this winter, the state Legislature has passed emergency legislation authorizing the DOER to establish a one-time program to be known as the Massachusetts Heating Oil Inventory Program ("Program"). The Legislature and the Governor regard the potential of an oil shortage in the Commonwealth this winter, and the need for this program to address that potential, to be a matter of **extreme urgency**.

The Program provides an incentive for eligible fuel oil wholesalers and retailers ("suppliers") to purchase oil and place it in storage in Massachusetts by December 8, 2000, hold it in storage until January 15, 2001, and thereafter release it for sale to citizens of the Commonwealth. DOER has issued emergency regulations which prescribe how the Program works. The regulations are attached for informational purposes.

DOER will contract with eligible oil suppliers who agree to participate in the program. As consideration for their participation, DOER will pay these suppliers an amount they bid (expressed in cents per gallon) for purchasing and holding the oil for a prescribed period of time. Certain price adjustments will be made in the event that oil is released prior to the prescribed dates in the contract, and excess revenues (as described in the contract) will be divided evenly between the contractor and the Commonwealth. NO OIL PURCHASE SUBJECT TO THIS PROGRAM SHALL BE SOLD, RESOLD, OR DELIVERED FOR USE OUTSIDE OF THE COMMONWEALTH OF MASSACHUSETTS.

This program will terminate on January 16, 2001. The Commonwealth's maximum obligation of this Request for Response (RFR) is $5 million.

Bidders' Conference

On Monday, November 13th starting at 2:00 PM, DOER will conduct a Bidders' Conference at DOER (70 Franklin Street, 7th Floor, Boston, MA). Potential bidders will have the opportunity to receive answers to questions about technical aspects of the program and on completing the necessary forms.

Following the Bidders' conference, if you have questions about the documents and forms associated with the RFR, you may e-mail the questions to Joanne McBrien at DOER at jmcbrien@state.ma.us. Responses will be posted on Comm-PASS as soon as possible.

Pre-qualification Submittal

Applicants must be pre-qualified prior to submitting their bids. Any bid submitted by a bidder that has met the pre-qualification criteria shall be considered in the final bid selection process. The pre-qualification form is found in Attachment A to this solicitation. **An original and three (3) copies of a completed pre-qualification form shall be submitted not later than 12:00 PM Tuesday, November 14, 2000 to the following:**

Ms. Joanne McBrien
Market Development Team Leader
Division of Energy Resources
70 Franklin Street, 7th floor
Boston, Massachusetts 02110-1313

1. **Bid Submittal and Date**: Bids must be prepared on the Bid Form, and received no later than **9:30 AM, November 15, 2000 (The Bid Submittal Date).** Any bid offered for filing after this date and time shall be refused. All bids from pre-qualified bidders must meet the technical specifications and requirements outlined in this RFR. Bids can be hand delivered or faxed to DOER at 617-727-0030 or 617-727- 0093 or 617-227-6094. If the fax is busy, call 1-800-351-0077 ext. 145 or ext. 132.

Only one Bid Price should be offered per Bid Form, and only one geographic region ("Bid Region") should be referenced in each Bid Form. Multiple Bid Forms may be submitted. Multiple blocks may be included on the same Bid Form, provided they are offered at the same Bid Price and Bid Region.

Selection of the successful bidders will be announced on or about 1:00 PM November 15, 2000.

II. SCOPE OF SERVICES/PROPOSAL REQUIREMENTS

A. GENERAL

The winning bidders ("Contractor(s)") will be expected to purchase and store a minimum of 10,000 barrels of #2 fuel oil ("oil"). The Contractor may submit bids for one or more "blocks" of 10,000 barrels each, and must specify a bid price and specific storage location for each block. The contractor will purchase and deposit the oil in the storage facilities specified in its bid on or before December 8, 2000. The contractor is encouraged to hold the oil in these storage facilities through until January 15, 2001 (the "Release Date"). The Commonwealth is not purchasing the oil, nor is it paying the Contractor for his/her purchase price of the oil. Rather, the Commonwealth will pay winning bidders on a cents/gallon basis an amount that bidders offer (nominate) in order to participate in the program. The Contractor will be free to release the oil for sale to its customers at any time, subject to payment adjustments specified in the Contract between the Commonwealth and the Contractor. While Contractors will be free to sell the oil at any time, these payment adjustments create a financial incentive for Contractors to retain the oil in storage until the Inventory Release Date.

B. PRE-QUALIFICATION REQUIREMENTS and FORMS

Applicants must file a **Pre-qualification Information Packet** (consisting of Attachments A, B, C). This packet and requested information must be completed and received by DOER **no later than 12 PM Tuesday, November 14, 2000**. DOER reserves the right to reject any applicant if the information provided in the pre-qualification form indicates that the bidder has any history of unlawful or improper business practices or indicates that the business practices of such applicant pose a risk to the effective and expeditious implementation of this program or to the interests of consumers in the Commonwealth.

Attachment C is a standard contract form that must be signed in triplicate by a duly authorized official of the bidder, and it must be submitted with the other pre-qualification material. The contract will not become binding unless the bidder submits a Bid Price Form (explained below) that is accepted by the Selection Committee. Further information regarding the contract is found in Section III. G, below.

C. BID PRICE FORM

Applicants must file the **Bid Price Form** no later than 9:30 AM, November 15, 2000. Bids may be submitted by Fax or hard copy. The Bid Form is found in Attachment B.

The Bid Price shall be the amount that the bidder nominates to be paid by the Commonwealth for participating in the Program. Bids must be in increments of 10,000 barrels (420,000 gallons) each of #2 heating oil. The Bid Price shall be on a per gallon basis. Bids will identify the geographic region of where each block is to be stored according to the map and boundary description found in Attachment M and M-1 respectively.

D. PROPOSAL EVALUATION

(1) Bid Selection Committee

Bid Price Forms will be evaluated by a Selection Committee consisting of the Commissioner of DOER, the Director of the Office of Consumer Affairs and Business Regulation, and the Director of the Operational Services Division, or their respective designees. All complete Bid Price Forms that are timely received at the DOER offices on the Bid Submittal date shall be considered by the Bid Selection Committee.

(2) Bid Selection Criteria

The bid selection process shall be as follows:

(a) Geographic Regions and Target Storage Volume in Each

The four geographic regions are depicted on the program map in Attachment M. Bids will first be grouped according to the four geographic regions in which the blocks bid will be stored. To assure rapid distribution of oil to customers in each region, the Selection Committee has established a minimum target volume of oil to be stored in each of the four geographic regions depicted in Attachment M and M-1. The minimum target volumes are as follows:

Boston-Metro – 400,000 barrels
Northeast – 100,000 barrels
Southeast – 200,000 barrels
Western – 100,000 barrels

(b) Ranking of Bids to Achieve Target Volume by Geographic Region

To achieve the minimum target volume storage requirement by geographic region, the Bid Selection Committee shall first segregate the bids based on the geographical region of the Storage Facility(ies) proposed to be used by the bidder. Bids shall then be ranked within each region from low bid to high bid. The Selection Committee shall then conduct an initial round of bid selection by selecting the lowest priced bids (in Program Block increments) within each region, independent of the other Program region bids, up to the required minimum volume for each region. The minimum target volumes may not be reached in the initial round of bid selection if the bids for the applicable geographic region are determined by DOER to be unreasonably high and not in the best interest of the program.

(c) Ranking of Remaining Bids to Complete Bid Selection Process

Once the initial round of bids are accepted, the remaining bids will be selected based upon price, but not upon geographic location of storage. Bids will be ranked from lowest price to highest and shall be selected until Program funds have been fully allocated to the winning bidders. In the event that there are multiple equivalent bids, DOER shall have discretion to select the winning bid(s) based upon a determination of the geographic regions in greatest need of additional oil storage and the storage facility locations.

If program funds are not fully obligated on the Bid Submittal Date, or if subsequent events invalidate previously awarded bids, DOER may schedule additional Bid Submittal Dates until all Program funds are obligated. DOER may reject any and all bids if it determines such bid(s) are not in the public interest.

(3) DOER Option to Reject all Bids

If funds appropriated for this solicitation are not fully obligated following the initial selection of winning bidders as described above, or if subsequent events invalidate previously awarded bids, the Selection Committee may schedule additional Bid Submittal Dates until all Program funds are obligated. DOER may reject any and all bids if it determines such bid(s) are not in the public interest. DOER also reserves the right to negotiate a best and final bid.

(4) Bid Selection Date

The Bid Selection Committee shall commence selection of the winning bids on November 15, 2000 at 9:30 AM in the DOER office. Upon selection of the winning bids, the Commonwealth shall execute the selected bid contracts and notify the selected bid applicants.

If the bid is accepted by the Selection Committee, the DOER will sign the contract, and immediately notify the bidder of the bid award. If the bid is not accepted, DOER notify the bidder that the bid was not accepted, and will destroy the contract.

III. GENERAL TERMS

A. Duty To Submit Current Version of RFR

Because oil inventories in Massachusetts are deemed to be extremely low, thereby creating a matter of extreme urgency, this RFR requires that bids be submitted within a very brief period of time. Nevertheless, it shall be the responsibility of every Bidder to check the Comm _PASS System (the Commonwealth's internet-based procurement notification system) for any additions or changes to this RFR. Potential Bidders are advised to check the “last change” field on the summary page of this RFR prior to submitting a proposal. DOER and the Commonwealth of Massachusetts accept no liability and will provide no accommodations for bids based upon an out-of-date RFR.

The Bidder may not alter the RFR or its components except for those portions intended to collect the vendor’s response (cost pages, etc.). Modifications to the body of this RFR, specifications, terms and conditions are prohibited. Any modifications other than where the Bidder is prompted for a response may disqualify the bid. RFR Attachments that are referenced will be found either as a separate .pdf file along with the RFR, or found in the vendor “Forms and Information” section at : (http://www.comm-pass.com/comm-pass/forms.html.)

B. Acceptance or Rejection of Responses

1) This is not an offer to contract, but a request for offers. The Division of Energy Resources (DOER) reserves the right to withdraw this RFR at any time, prior to the execution and approval of a contract, to reject any and all responses received, to accept all or any part of any response received, and to accept more than one response.

2) All terms, conditions, requirements, and procedures included in this RFR should be met for a response to be determined responsive. If a Bidder fails to meet any material term, condition, requirement or procedure, the response may be deemed unresponsive.

C. Incurring Costs

Costs which are not specifically identified in the response, will not be compensated under any Contract awarded pursuant to this RFR. DOER is not liable for any costs incurred, nor obligated for any payments for services provided by any Bidder prior to the execution of an acceptable, duly approved contract. DOER will not be responsible for any costs or expenses incurred by bidders in responding to this RFR. Any damage which may occur due to packing or shipping of a response shall be the responsibility of a Bidder.

D. Disclosure of Response Contents

1) All responses and information submitted in response to this RFR are subject to the Massachusetts Freedom of Information Law, M.G. L., Chapter 66, Sec 10, and Chapter 4, section 7, regarding public access to such documents. Any statements reserving any confidentiality or privacy rights in submitted responses, or which are otherwise inconsistent with these statutes, will be void and disregarded.

2) Responses and supporting documentation materials become the property of the Commonwealth upon submission. DOER shall be under no obligation to return any responses or materials submitted in response to this RFR.

E. Bidder-DOER Communications during the selection period

From the release of this RFR until an award is made regarding the selection of the Bidder(s) as a result of this RFR, and for the selected Bidder(s) until a contract is signed, all contact, except for those made pursuant to any pre-existing obligation, with personnel employed by or contracted to DOER, must be approved by DOER Contact Person noted in Part I of this RFR.

Violation of these conditions will be considered sufficient cause by DOER to reject a Bidder's Response and /or selection irrespective of any other considerations.

In addition, Bidders are advised that only the DOER Contact Person can answer questions, clarify issues, and amend or render any opinion regarding this RFR. No other Commonwealth employee or representative is authorized to provide any information or respond to any questions or inquiries concerning this RFR. All questions must be submitted to DOER by electronic mail. DOER shall publish all questions and answers on the Commonwealth's Comm_Pass system.

F. Clarification of Responses

DOER Contact Person may request from Bidders additional information needed to clarify Bidder's Responses.

G. Contract

1) All Bidders must thoroughly review, complete**, execute and return the Commonwealth Terms and Conditions attached to this RFR (Attachment D) with the Pre-qualification Information packet**. Documents can also be found on line at http://www.comm-pass.com/comm-pass/forms.asp. A bidder is required to execute the Commonwealth Terms and Conditions only once. If the bidder has already executed and filed the Commonwealth Terms and Conditions, please indicate this in your Response. The Commonwealth Terms and Conditions shall be incorporated by reference into any Contract executed pursuant to this RFR.

2) The bidder selected to perform service under this RFR shall be required to complete, **execute and return the Standard Contract Form (Attachment E)) with the Pre-qualification Information packet**. By executing the Standard Contract Form, the Contractor certifies, under the pains and penalties of perjury, that it has submitted a Response to a Request for Responses (RFR) issued by DOER and that this Response is the Contractor's offer as evidenced by the execution of the Contractor's authorized signatory, that the Contractor's Response may be subject to negotiation by DOER and the terms of the RFR, the Contractor's Response and any negotiated terms shall be deemed accepted by DOER and included as part of the Contract upon execution of the Standard Contract Form by DOER's authorized signatory.

3) The Bidder selected by DOER will be required to execute Massachusetts Substitute W-9 Form (Attachment E) and all necessary certifications (Attachment F), and to comply with all federal, state, and local laws, regulations and ordinances.

4) DOER will continually evaluate the Contractor's performance to determine if the services are being conducted as scheduled and budgeted.

5) DOER shall require the Contractor to designate a Contract Manager to ensure the Contract provisions and scope of services are being adhered to and will work with the Contractor to facilitate the performance of the Contract.

6) The following mandatory provisions shall be included in any contract awarded pursuant to this RFR.

H. Minority Business Enterprises ("MBEs")

Executive Order No. 390, issued August 6, 1996, established a policy to promote the award of state contracts to MBEs. In accordance with this policy, MBEs are encouraged to submit proposals in response to this RFR. For the purpose of this RFR, a respondent contractor, subcontractor, or joint venturer that has satisfied the requirements of a minority-owned business, is placed on the list of MBEs published by the State Office of Minority and Women Owned Business Assistance ("SOMWBA"), and submits with its proposal verification of such MBE certification, shall be considered a "certified MBE."

Any minority-owned business may apply to SOMWBA for MBE certification. Vendors who are not SOMWBA certified, but who are certified as a minority-owned business by an alternative source, such as federal governmental entities or the other forty-nine states, are strongly encouraged by the Commonwealth to seek SOMWBA certification to be placed on the Commonwealth's list of certified MBEs.

For purposes of this RFR, a respondent contractor, subcontractor, or joint venturer may seek a "fast track" evaluation by SOMWBA by including, as part of the proposal submitted under this RFR, proof of minority certification by an alternative source and a statement requesting that SOMWBA perform a "fast track" evaluation. DOER will forward said proposal to SOMWBA and request such a "fast track" evaluation. In any event, DOER will provide a minority business scoring advantage only to SOMWBA certified MBEs. DOER is under no obligation to delay or suspend the evaluation of proposals or contractor selection during any SOMWBA evaluation. All MBEs must be certified as such by SOMWBA prior to any contract award under this RFR.

Any Respondent proposing to utilize the services of an MBE subcontractor under this RFR must provide in its proposal a detailed description of the specific services to be subcontracted to the MBE(s), the name(s) of such MBE subcontractor(s), qualifications of the named MBE subcontractor(s), and the amount the Respondent expects to pay for such MBE subcontractor services. The Respondent shall also include in its proposal a written statement from any participating MBE subcontractor indicating the MBE's willingness to serve as a subcontractor pursuant to this RFR.

Any respondent who is awarded a contract under this RFR, and who has included in its proposal certification of MBE status, shall be required to submit to DOER, on a quarterly basis and in the format provided by DOER, reports concerning such MBE status. Failure to comply with the MBE requirements of the contract, including all reporting requirements, shall be considered a major breach of the contract and may be grounds for suspension or cancellation of the contract.

For further information on SOMWBA MBE qualifications or access to SOMWBA MBE vendor lists for the purpose of proposal preparation, contact:

State Office of Minority and Women-Owned Business Assistance
10 Park Plaza St., Suite 3740
Boston, MA 02116
Telephone: (617) 727-8692

I. Amendments to RFR

If DOER determines it necessary to revise any part of this RFR, or to provide additional data to clarify any of its provisions, an amendment will be mailed to all bidders who have been sent a copy of the RFR.

J. Debriefing

Any Bidder may have a debriefing by requesting it within two weeks after receiving notice. The debriefing will be conducted by DOER Contact Person, who will only discuss DOER's evaluation of the Bidder's Response. Competing Bidders' Responses will not be discussed. A request for a debriefing must be addressed, in writing, to the Contact Person.

K. Trademarks, Patents

Unless otherwise clearly stated in this RFR, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this RFR to any manufacturer or proprietor or to constitute an endorsement of any good or service, and DOER may consider clearly identified offers of substantially equivalent goods and services submitted in response to such reference.

225 CMR 13.00 - EMERGENCY REGULATIONS FOR ADMINISTRATION OF THE MASSACHUSETTS HEATING OIL INVENTORY PROGRAM

Section

1: Authority
2: Effective Dates
3: Purpose and Scope
4: Definitions
5: Participant Eligibility Requirements
6: Bid Submittal Requirements
7: Bid Selection Process
8: Participant Requirements and Restrictions
9: Inventory Release
10: Carrying Cost Recovery and Revenue Sharing

13.01: Authority

225 CMR 13.00 is promulgated pursuant to the authority of M.G.L. c.25A, Section 6 and St. 2000, c. ____.

13.02: Effective Dates

The Massachusetts Heating Oil Inventory Program (the "Program") is an emergency program that becomes effective on November 1, 2000 through January 30, 2001.

13.03: Purpose and Scope

The Program is implemented to reduce the potential for heating oil shortages in the Commonwealth during the winter of 2000-2001.

The Program provides an incentive to qualified heating oil wholesalers and retailers ("Participants") to purchase and store heating oil in Storage Facilities located within Massachusetts. The financial incentive provides assurance to Participants that certain costs associated with purchasing and storing the oil prior to January 16, 2001 will be recovered if future oil prices are too low to recover those costs.

The Program shall be administered by the Massachusetts Division of Energy Resources ("DOER"). The Program cost shall not exceed its appropriation. Recipients of Program funds shall be selected by a competitive bid process, and must comply with the Program regulations.

13.04: Definitions

Bid Price – The maximum amount which a participant nominates may be paid by the Commonwealth to the participant as consideration for participating in the Program

Block - 10,000 barrels (420,000 gallons) of #2 fuel oil.

Cash Basis Differential – The difference between the Futures price and the Bidder's local cash market.

Early Inventory release Date – The date DOER is notified that the participant is no longer holding inventory in storage

Heating Oil - # 2 fuel oil.

Inventory - # 2 fuel oil acquired by Participants pursuant to this Program.

Inventory Release Date – 6AM on January 16, 2001.

NYMEX Heating Oil Futures Price – New York Mercantile Exchange (NYMEX) Futures settlement price for heating oil, February contract HOG01.

OPIS price – The daily average #2 high sulfur distillate price as posted in the OPIS Rack Fax. The Western Region shall use the Springfield, MA OPIS posting and all other Program regions shall use the Boston, MA OPIS posting.

Program - the Massachusetts Heating Oil Inventory Program.

Participant - a Program applicant whose bid was selected by the Bid Selection Committee and who executes a contract to participate in the Program

Purchase Date – the date a Participant is notified by DOER of bid acceptance. Notification will be on or before 1 PM on this date.

Revenue Sharing - the equal division of Net Revenue between Participants and the Commonwealth resulting from inventory release.

Storage Facilities - #2 fuel oil storage facilities located within the Commonwealth of Massachusetts to which participants have title, or other contractual rights for their use. To qualify, a storage facility must have truck racks.

13.05: Participant Eligibility Requirements

(1) Eligibility

To be eligible to participate in the Program, applicants must meet the following requirements:

(a) be a person doing business as a heating oil wholesaler or retailer within the Commonwealth of Massachusetts since at least January 1, 1998, and;
(b) have title to or contractual rights to heating oil storage facilities located in the Commonwealth of Massachusetts with a combined available storage capacity of 10,000 barrels or greater of oil in any one of the regions described in subsection 13.07(2)(a). The available storage capacity must be at least 10,000 barrels above the five-day average level of inventory in a participant's storage facility(ies) measured over the period from October 1 to October 5, 2000 ("the five day average"). To document the available storage capacity, an applicant shall provide DOER with the following information:
    (i) its total storage capacity statewide;
    (ii) its statewide existing inventory levels (the five day average);
    (iii) its total storage capacity located within each region, as described in subsection 13.07(2)(a), and;
    (iv) its existing inventory levels within each region (the five day average)
(c) satisfy the pre-qualification requirements established by DOER.

(2) Revocation of eligibility status

DOER may revoke the eligibility of any Participant in the Program if at any time DOER determines that any information in the Participant's pre-qualification submission or bid documents is false or misleading.

13.06: Bid Submittal Application Requirements

(1) Pre-qualification
Applicants shall submit an original and three copies of the pre-qualification documents to DOER at least 48 hours prior to the bid submittal date or by such deadline as DOER shall stipulate.

(2) Bid Submittal

Only bids from applicants who have received pre-qualification approval from DOER shall be considered. All bids shall be in a form prescribed by DOER, and shall be for a specified number of blocks.

(3) Bid Submittal Deadline

Bid forms must be received and date stamped at the DOER office by 9:30 AM on the Bid Submittal date as determined by the DOER. Bid forms may be faxed to DOER. Incomplete Bid Submittal Forms may be disqualified for consideration by the Bid Selection Committee.

13.07: Bid Selection

(1) Bid Selection Committee

The Bid Selection Committee shall be comprised of the Commissioner of DOER, the Secretary of the Executive Office of Consumer Affairs, and the Director of the Operational Services Division, or their respective designees. All complete Bid Submittal Forms that are timely received at the DOER offices on the Bid Submittal date shall be considered by the Bid Selection Committee.

(2) Bid Selection Criteria

The bid selection process shall be as follows:

(a) Geographic Region

To increase reliability of supply and reduce the time needed for heating oil distribution to all population areas, oil shall be stored in each of four Program regions. The delineated boundaries of the four regions are depicted on the program map in Attachment A.
The minimum target volumes per region are:

Boston-Metro – 400,000 barrels
Northeast – 100,000 barrels
Southeast – 200,000 barrels
Western – 100,000 barrels

(b) Ranking of Bids to Achieve Minimum Volume Requirement by Geographic Region

(i) To achieve the minimum target volume storage requirement by geographic region, the Bid Selection Committee shall first segregate the bids based on the geographical region of the Storage Facility(ies) proposed to be used by the bidder. Bids shall then be ranked within each region from low bid to high bid. The Selection Committee shall then conduct an initial round of bid selection by selecting the lowest priced bids (in Program Block increments) within each region, independent of the other Program region bids, up to the required minimum volume for each region. The minimum target volumes may not be reached in the initial round of bid selection if the bids for the applicable geographic region are determined by DOER to be unreasonably high and not in the best interest of the program.

(c) Ranking of Remaining Bids to Complete Bid Selection Process

Once the initial round of bids are accepted, the remaining bids will be selected based upon price, but not upon geographic location of storage. Bids will be ranked from lowest price to highest and shall be selected until Program funds have been fully allocated to the winning bidders. In the event that there are multiple equivalent bids, DOER shall have discretion to select the winning bid(s) based upon a determination of the geographic regions in greatest need of additional oil storage, the storage facility locations, and the qualifications of the bidders.

If program funds are not fully obligated on the Bid Submittal Date, or if subsequent events invalidate previously awarded bids, DOER may schedule additional Bid Submittal Dates until all Program funds are obligated. DOER may reject any and all bids if it determines such bid(s) are not in the public interest.

(3) <u>Bid Selection Date</u>

The Bid Selection Committee shall select the winning bid applications at a date and time they deem appropriate. Upon selection of the winning bids, the Commonwealth shall execute the selected bid contracts and notify the selected bid applicants.

13.08: Inventory Requirements and Restrictions

(1) Inventory Storage Deadline Dates

Heating oil inventory acquired pursuant to this Program shall be deposited in the storage facilities specified on the respective Bid form no later than the deadline date determined by the DOER. Upon petition of participants, DOER may modify the Storage Deadline Date for specific blocks at its discretion.

(2) Inventory Purchase and Storage Compliance Information

Participants shall submit appropriate documentation to DOER, which may consist of, but not be limited to, properly executed consignment filings on Form UCC-1, to confirm compliance with the purchase and storage deadline requirements stated in subsection 13.08(1)(a) and (b). The documents shall be submitted to the DOER offices by 5 PM on dates as DOER may specify.

(3) Inventory Delivery Method and Use Restrictions

Export of inventory beyond the geographic boundaries of the Commonwealth of Massachusetts by any means is expressly prohibited.

(4) Right of Inspection of Participant Records and Storage Facilities

(a) Right of Inspection

To ensure participants comply with the provisions of subsection 13.08(1) and 13.09(1), the DOER shall have the right to enter the storage facilities of participants to inspect the inventory on site at any time without prior notice. Inspection shall be limited to facilities and documentation associated with Program inventory.

(b) Inspection Report

Upon completing an inspection pursuant to this subsection DOER shall prepare an inspection report. The inspection report shall be completed within five business days of the completion of the inspection. A copy of the report shall be sent to the respective Participant within five business days thereafter. The report shall include the following information:

(i) inspection date;
(ii) time of the inspection;
(iii) description of the facilities and documents inspected;
(iv) name and title of company officials contacted;

(v) statement of the findings of the inspection including any findings with respect to compliance with Program regulations or any Program violations;

(vi) actions required by the participant and/or cost adjustments provisions to be invoked by the Commonwealth.

13.09: Inventory Release

(1) Inventory Release Date and Early Release Notification

(a) Inventory Release Date

The Inventory Release Date shall be January 16, 2001, unless released early as provided in subsection 13.09(3)(a). Inventory will be deemed released for sale as of 6AM, 1/16/01. Program participants may sell inventory after the inventory release date, however for the purposes of calculating any program payment such inventory shall be deemed released as the Inventory Release Date.

To ensure compliance with Program inventory release requirements, participants shall provide documentation satisfactory to DOER that certifies the total volume of #2 fuel oil stored in the Commonwealth to which the participant has title as of 6AM January 16, 2001. The participant shall provide its total volume of such #2 fuel oil both statewide and within each region (as defined in subsection 13.07(2)(a)) as of the above referenced time and date.

(b) Early Inventory Release

A participant that releases inventory prior to the Inventory Release Date (January 16, 2001) shall be subject to a payment adjustment. The amount of the payment adjustment shall be calculated according to the following:

The payment to participants as calculated pursuant to subsection 13.09(2)(a) will be reduced by: a $0.0027/day/gallon reduction, starting from January 15, 2001 and proceeding back in time to the date of the early release.

A payment adjustment assessed under this subsection shall be paid in full to the Commonwealth of Massachusetts within 30 days of the adjustment. Receipt of the adjustment notice issued under 13.09(3)(c) shall start the 30-day payment period.

(c) Early Inventory Release Notification

Appendix C

On the day any block is to be released from inventory prior to the Inventory Release Date, participants shall provide an Inventory Release Notification (notification) to the DOER. The notification shall be in writing and shall be delivered or faxed to the DOER offices by 5 PM on the day of the release. The notification shall contain the following information:

(i) Participant identification ;
(ii) location of the storage facilities from which the inventory was released ;
(iii) date of the release; and
(iv) volume of the release.

(2) <u>Program Payment Formula</u>

Any Program payments by or to the Commonwealth will be calculated and reconciled as of January 16, 2001 according to the following formulas:

(a) Program Payment for blocks held until the Inventory Release Date, January 16, 2001 = P_{IRD}

$$P_{IRD}\ \$/\text{gallon} = A - (B+C) - D$$

(b) Program Payment for blocks for which DOER receives an Early Release Notification = P_{EIRD}

$$P_{EIRD}\ \$/\text{gallon} = A - (E+C) - [D - (0.0027 \times F)]$$

Where:

A= Five day average of the OPIS average rack price for the Inventory Release Date (January 16, 2001) and the following four business days.

B= Five day average of February Heating Oil Futures Settlement Price on January 16, 2001 and four following business days.

C= Cash Basis Differential, that is, the difference, as of the Bid Date, between the February Heating Oil Futures Settlement Price and the Bidder's local cash market price.

D= Bid Price

E= Five day average of February Heating Oil Futures Settlement Price on the Early Inventory Release Date and the four following business days.

F= Number of days between the Early Inventory Release Date and January 15, 2001, inclusive

If the value from the above calculation is positive, the resulting revenue will be subject to revenue sharing pursuant to section 13.10(b).

All payments and costs allocated to inventory released after the inventory release date will be accounted for as if the inventory was released on the Inventory Release Date. The payment to participants under this subsection shall be made within 60 days of the Inventory Release Date.

13.10: Bid Recovery and Revenue Sharing

(a) Bid Recovery

Subject to calculations and adjustments set forth in this regulation, a participant shall recover its Bid Price from revenues received from the sale of inventory as calculated by the formula for determining net revenue. The Commonwealth shall not be obligated to use Program funds to pay the bid price that is otherwise recovered from revenue earned pursuant to the formula set forth in section 13.09(2).

(b) Revenue Sharing

In addition to other cost adjustments set forth in this regulation, the participant shall share with the Commonwealth any net program payments derived from the release of inventory either before or after the Inventory Release Date. Revenue sharing resulting from an early release shall be calculated after the assessment of the early release cost adjustment. Per subsection 13.10(a), program payments will first be used to pay the bid price. Program payments exceeding the Bid Price shall be divided evenly between the Participant and the Commonwealth according to the following:

The positive value obtained pursuant to the calculation performed in subsection 13.09(2)(a) times 0.50, multiplied by 420,000 gallons for each block.

Appendix C

MASSACHUSETTS HEATING OIL INVENTORY PROGRAM REGIONS

DESCRIPTION

NORTHEAST REGION

The Northeast Region boundary (NERB) begins at the Revere/Winthrop corporate boundary and proceeds west along said boundary to the Revere/Chelsea corporate boundary. From this point the NERB continues west along said boundary to the Revere/Everett corporate boundary and proceeds north to the intersection of the Revere/Everett/Malden corporate boundaries. From this point the NERB proceeds west along the Malden/Everett corporate boundary to the intersection of the Malden/Everett/Medford corporate boundary. From this point the NERB proceeds north along the Malden/Medford boundary to the intersection of the Medford/Stoneham corporate boundary. From this point the NERB proceeds west along the Medford/Stoneham corporate boundary to Route I-93. From this point the NERB follows I-93 to the NH border. All areas north and east of this boundary are located in the Northeast Region.

METRO-BOSTON REGION

The Metro Boston Region boundary (MBRB) follows the Northeast Region boundary to the intersection of I-93 with I-495. At this point the MBRB follows I-495 south to the intersection of I-495 and I-95. From this point the MBRB proceeds north along I-95 to the intersection of I-95 and Route 128/95. From this point the MBRB follows the Canton/Dedham corporate boundary to the intersection of the Canton/Dedham/Boston/Milton corporate boundary. From this point the MBRB proceeds south along the Canton/Milton boundary to the Canton/Milton/Randolph corporate boundary. From this point the MBRB proceeds east along the Milton/Randolph corporate boundary to the intersection of the Milton/Randolph/Quincy corporate boundary. From this point the MBRB proceeds northeast along the Milton/Quincy corporate boundary to the point of termination at the intersection of the Quincy/Milton/Boston corporate boundary. All areas within this boundary are located in the Metro Boston Region.

SOUTHEAST REGION

The Southeast Region boundary (SERB) follows the MBRB from the Boston/Quincy/Milton corporate boundary intersection to the intersection of I-495 and I-95. From this point the SERB follows I-95 south to the MA/RI border. All areas southeast of this boundary are located in the southeast region.

WESTERN REGION

The Western Region boundary (WRB) follows the NERB from the I-93/NH intersection to the intersection of I-93 and I-495. From this point the WRB follows I-495 to the I-495/I-95 intersection. From this point the WRB follows I-95 south to the MA/RI border. All areas west of this boundary are located in the Western Region.

Pre-Qualification Information

Below is a list of documents and other information DOER requires to pre-qualify applicants. Where applicable, please furnish copies of the requested documents or indicate in writing that none exists. DOER may request additional documents or information if it deems that necessary.

Unless otherwise indicated, (1) all requests are for any matters which are currently existing or are in effect or which occurred since the applicant company's founding (even if they are not now existing or in effect; and (2) each request applies to the applicant company, all past and present subsidiaries of the company (if any), and all predecessors of the company, whether corporations, partnerships or joint ventures (for purposes of this request, all such entities also are included in the "company" and are referred to as such, and each request should be applied to each such entity).

1. Company name and business address.

____

____

2. Title, address, telephone number, and e-mail address of one or more individuals who can respond to requests for additional information

____

____

3. Name, title, address, telephone number, and e-mail of one or more individuals who are authorized to negotiate and sign a Contract for bidder.

____

____

4. Date that the company was incorporated, or began doing business in the Commonwealth under its current name: ________________________.

5. Any finding, report, complaint, consent decree, determination, order, etc., to, by, with or from any federal, state or local regulatory agencies having jurisdiction over the company and relating to any actual or alleged violation of a municipal, state, or federal law or regulation.

   If none, so state: _______________ If so, attach explanation.

6. Material consents and agreements with any tax authority or any pending or threatened material disputes concerning tax matters.

   If none, so state:_______________ If so, attach explanation.

7. Description of any material threatened litigation or pending bankruptcy of the company, including description of parties, nature of actions and remedies sought.

   If none, so state:_______________ If so, attach explanation.

8. The total amount of #2 fuel oil **storage capacity** owned by the bidder or over which the bidder has constructive possession in the Commonwealth of Massachusetts (by region) as of the Bid Submittal Date (refer to Map - Attachment M for geographic regions)

   Boston-Metro ______________________bbls.

   Northeast ______________________

   Southeast ______________________

   Western ______________________

9. The amount of #2 **fuel oil held** in these storage facilities measured over the period from October 1 to October 5, 2000 ("the five day average"), by region:

   Boston-Metro ______________________bbls.

   Northeast ______________________

   Southeast ______________________

   Western ______________________

10. If chosen to participate in this program, you will be required to demonstrate to DOER's satisfaction that the total amount of #2 fuel oil that the bidder holds in storage in the Commonwealth of Massachusetts on December 22, 2000 shall be equal to or greater than the sum of the total amount described in question 9 **and** the amount contracted for in this program. **If you were selected as a winning bidder in the first round of bid selection on November 15, 2000, the quantity of oil stated in this answer must also include the additional amount specified in those accepted bid(s).** Are you prepared to provide this documentation?

    Yes _____ No _____

Appendix D

ATTACHMENT E-1

AFFIDAVIT

I, ______________________, in my official capacity as ___________________(President, Treasurer, etc) of the ______________________________(name of company), hereby certify that the company has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. I further certify that all federal and state taxes are paid up to date, and that I have applied to the Massachusetts Department of Revenue to obtain *a Certificate of Good Standing,* which I shall forward to the Massachusetts Division of Energy Resources immediately upon receipt.

I further state that the bid I submit pursuant to this solicitation, including the availability of the nominated storage facilities, will remain in effect for a period of twenty-four hours from the Bid Submittal Date (9:30 AM, November 28, 2000) and thereafter until I withdraw it, or until I am notified that my company's bid has been selected, or this solicitation is terminated by the Commonwealth, whichever occurs first.

I further state that if the Commonwealth accepts my company's bid within twenty-four hours from the deadline of the Bid Submittal Date referenced above or any additional period as may be jointly agreed upon by my company and the Commonwealth, the company will furnish any and all of the proposed services to the Commonwealth at the rates shown in the contract "Budget".

Signed under the penalties of perjury this _________ day of _______, 2000.

____
(signature)

____
(Printed name and title)

COMMONWEALTH OF MASSACHUSETTS

_______________,ss. _______________, 2000

Then personally appeared the above named _________________ and made oath that the foregoing statement is true and acknowledged the foregoing to be _________free act and deed, before me,

____
Notary Public
My commission expires: